



NATURAL RESOURCES

Summary of H.R. 1644, Supporting Transparent Regulatory and Environmental Actions in Mining Act (“STREAM Act”)

H.R. 1644, the STREAM Act, originally sponsored by Alex Mooney (WV-02), Bill Johnson (OH-06), and Doug Lamborn (CO-05) would address the actions of the Office of Surface Mining Reclamation and Enforcement (OSMRE) regarding their proposal of a new stream buffer zone rule. The bill is comprised of three sections: the first ensures transparency in the science used for regulatory decision-making, the second requires an objective study to evaluate the strength of in place stream buffer zone rules, and the third seeks to end duplicative rulemaking.

SECTION 2: PUBLICATION OF SCIENTIFIC PRODUCTS

This section ensures transparency in the rulemaking process by requiring OSM to make available online its “scientific products” that are relied upon in its regulatory actions. In the past, OSM has utilized internal studies that are not made public to justify regulatory actions. To address this issue, the Act would require OSM to publish all scientific products it relies on in regulatory actions – including the scientific products used to produce environmental impact statements or environmental assessments (collectively “environmental analyses”), and economic assessments; and, for federally-funded scientific products, the STREAM Act requires OSM to also publish raw data.

Should OSM fail to make available such scientific products, then the comment period or effective date of the regulatory action relying upon those products shall be extended by one day for each day such product is withheld. If a scientific product is withheld for longer than six months, then the Secretary must withdraw the regulatory action.

SECTION 3: STUDY OF THE SBZ RULE

Section 3 of the STREAM Act requires the Secretary of the Interior, in consultation with the Interstate Mining Compact Commission, to enter into an agreement with the National Academy of Sciences to conduct a study on the regulatory effectiveness of the 1983 Rule. While the study is ongoing, the Secretary is prohibited from issuing any regulations addressing stream buffer zones or stream protection, including the recently proposed rule. Once published, the Secretary is required to take into consideration any findings or recommendations made by the study should the Secretary seek to continue work on a Stream Protection rule.

SECTION 4: COMPLIANCE WITH OTHER FEDERAL LAWS

The final section of HR 1644 seeks to inhibit OSM’s regulatory overreach by curtailing regulatory actions that are beyond OSM’s explicit jurisdictional authority as defined by SMCRA. For instance, a concern related to the ongoing rewrite is that OSM has sought to interpret and enforce the Clean Water Act outside its authority by establishing a new set of water quality monitoring and evaluation standards and procedures. The final section of the STREAM Act would prevent such actions, thereby ensuring future regulatory actions would be confined to express statutory authority.